

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

SHAKEA BRADSHAW

(b) County of Residence of First Listed Plaintiff _____

(c) Attorney's (Firm Name, Address, Telephone Number and Email Address)

Craig Thor Kimmel, Esquire
Kimmel & Silverman, P.C.
30 E. Butler Pike
Ambler, PA 19002
(215) 540-8888

DEFENDANTS

NCO FINANCIAL SYSTEMS, INC.

County of Residence of First Listed Defendant _____

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|--|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated <i>or</i> Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated <i>and</i> Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

| CONTRACT | TORTS | FORFEITURE/PENALTY | BANKRUPTCY | OTHER STATUTES |
|--|--|--|---|---|
| <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise | PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury | PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes |
| REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property | CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights | PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition | LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions | |

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 U.S.C SECTION 1692

Brief description of cause:

Fair Debt Collection Practices Act

VII. REQUESTED IN COMPLAINT:☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S)**

(See instructions):

JUDGE _____

DOCKET NUMBER _____

Explanation:

DATE

SIGNATURE OF ATTORNEY OF RECORD

10/26/2012

/s/ Craig Thor Kimmel

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

| | | | |
|-----------------------------|---|---|--------------|
| SHAKEA BRADSHAW | . | : | |
| | | : | |
| v. | | : | CIVIL ACTION |
| | | : | |
| NCO FINANCIAL SYSTEMS, INC. | | : | NO. |
| | | : | |

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. (X)
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ()

10/26/2012
Date

Craig Thor Kimmel
Attorney-at-law

Plaintiff, Shakea Bradshaw
Attorney for

215-540-8888
Telephone

877-788-2864
FAX Number

kimmel@creditlaw.com
E-Mail Address

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.Address of Plaintiff: 14671 Reforma Dr., Dallas, TX 75254Address of Defendant: 507 Prudential Road, Horsham, PA 19044Place of Accident, Incident or Transaction: _____
(Use Reverse Side For Additional Space)Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes ☐ No ☒Does this case involve multidistrict litigation possibilities? Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☒ All other Federal Question Cases
(Please specify) 15 U.S.C. § 1692

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases
(Please specify) _____

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Craig Thor Kimmel, counsel of record do hereby certify:

- ☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☐ Relief other than monetary damages is sought.

DATE: 10/26/2012/s/ Craig Thor Kimmel
Attorney-at-Law57100

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.**I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.**DATE: 10/26/2012/s/ Craig Thor Kimmel
Attorney-at-Law57100

Attorney I.D.#

PARTIES

5. Plaintiff is a natural person residing in Dallas, Texas 75254.

6. Plaintiff is a “consumer” as that term is defined by 15 U.S.C. §1692a(3).

7. In the alternative, Plaintiff is a person granted a cause of action under the FDCPA. See 15 U.S.C. §1692k(a) and Wenrich v. Cole, 2000 U.S. Dist. LEXIS 18687 (E.D. Pa. Dec. 22, 2000).

8. Defendant is a national debt collection company with its corporate headquarters located at 507 Prudential Road, Horsham, Pennsylvania 19044.

9. Defendant is a “debt collector” as that term is defined by 15 U.S.C. § 1692a(6), and repeatedly contacted Plaintiff in an attempt to collect a debt.

10. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

11. At all pertinent times hereto, Defendant was hired to collect a consumer debt and attempted to collect that debt from Plaintiff.

12. The debt Defendant was seeking to collect, a medical bill allegedly owed to Medical City, arose out of transactions that were primarily for personal, family, or household purposes.

13. Beginning on or about September 4, 2012, and continuing through September 25, 2012, Defendant called Plaintiff on her cellular telephone in its attempt to collect this debt.

14. Defendant contacted Plaintiff at times when it was inconvenient for her to receive debt collection calls, specifically calling her while she was at work.

15. On September 4, 2012, Plaintiff instructed Defendant not to call her while she

1 was at working, telling Defendant that it could call her after 5:00 p.m. Defendant, however,
2 disregarded Plaintiff's instructions and continued to call at work, most recently on September
3 25, 2012.

4 16. Upon information and belief, Defendant called Plaintiff on a repetitive and
5 continuous basis at her place of employment, despite knowing that she did not want to receive
6 its collection calls during her day. For this reason, Plaintiff avers that the calls were placed by
7 Defendant with the intent of harassing Plaintiff until she paid the alleged debt.
8

9 17. Within five (5) days of its initial communication with Plaintiff, Defendant failed
10 to send Plaintiff written notification of her rights to dispute the debt and/or request verification
11 of the debt as well as providing her with the name of the creditor and the amount of the debt.

12 18. Defendant would not reveal the account number or service of the debt it was
13 seeking to collect. As the creditor was a hospital where Plaintiff's son received many different
14 services, all of which she made her co-pay for, and the balance covered by her insurance, she
15 could not identify what specific service, date or account number was associated with the alleged
16 debt.

17 19. Plaintiff contacted Defendant numerous times when it was convenient for her to
18 talk, and sought a collection supervisor in hopes of resolving her questions, however she was
19 informed each time that there was no need for her to speak with a supervisor, she just needed to
20 pay the bill.
21

22 20. Finally, on September 24, 2012, Plaintiff requested a letter explaining the alleged
23 debt. She was informed at that time that there had been a payment in April on the alleged debt.
24 Plaintiff recollected that in April 2012, she took her son to the hospital, had paid the co-payment
25 and all the other bills associated with the visit were paid for by her insurance company.

1 21. The next day, Defendant contacted Plaintiff and informed her that she owed
2 \$439.14, which Plaintiff disputed. Defendant's collector, Dana Walcotp then asked Plaintiff if
3 she still worked for "Kemper Insurance." When Plaintiff confirmed that she did, the collector
4 stated in an ominous tone: "Oh, we will get the money", giving an impression that Defendant
5 was threatening garnishment.

6 22. Upon information and belief, Defendant did not intend and/or did not have the
7 legal authority to garnish or take legal action at the time the threat was made.
8

9 23. Fearing embarrassment from a garnishment of her paycheck, Plaintiff agreed to
10 make an online payment to Medical City in the amount of \$39.18. The following day,
11 September 26, 2012, Plaintiff received a letter from Defendant, which was dated August 29,
12 2012. Upon information and belief, the letter was not prepared on August 29, 2012, but was
13 given that date to conceal its actual preparation date and to mislead Plaintiff.

14 24. On that same day, Plaintiff wrote a letter to Defendant advising that she disputed
15 owing the debt and expressed her feelings as to how she was treated by Defendant's collectors.
16 See Exhibit A, Plaintiff's September 26, 2012, letter to Defendant.

17 25. Defendant's actions in collecting the alleged debt were harassing, annoying and
18 threatening, in violation of the FDCPA.
19

20
21 **DEFENDANT VIOLATED THE**
22 **FAIR DEBT COLLECTION PRACTICES ACT**

23 **COUNT I**

24 26. Defendant's conduct, detailed in the preceding paragraphs, violated 15 U.S.C.
25 §1692c(a)(3).

 a. A debt collector violates §1692c(a)(3) of the FDCPA by communicating with a

1 consumer in connection with the collection of any debt at the consumer's place of
2 employment if the debt collector knows or has reason to know that the
3 consumer's employer prohibits the consumer from receiving such
4 communication.

- 5 b. Defendant violated §1692c(a)(3) of the FDCPA when it communicated with
6 Plaintiff about a debt at her place of employment, after having been told
7 repeatedly by Plaintiff cannot receive its calls at work.

8
9 **COUNT II**

10 27. Defendant's conduct, as detailed in the preceding paragraphs, violated 15 U.S.C.
11 §§1692d and 1692d(5).

- 12 a. A debt collector violates §1692d of the FDCPA by engaging in conduct of the
13 natural consequence of which is to harass, oppress, or abuse any person in
14 connection with the collection of a debt.
- 15 b. Here, Defendant violated §1692d of the FDCPA by repeatedly calling Plaintiff at
16 her place of employment and not allowing her to speak with a supervisor about
17 this matter, despite multiple requests.

18
19 **COUNT III**

20 28. Defendant's conduct, as detailed in the preceding paragraphs, violated 15 U.S.C.
21 §§1692e and 1692e(4) of the FDCPA.

- 22 a. A debt collector violates §1692e of the FDCPA by using false, deceptive or
23 misleading representations or means in connection with the collection of any debt.
- 24 b. A debt collector violates §1692e(4) of the FDCPA by representing or implicating
25 that nonpayment of any debt will result in the arrest or imprisonment of any

1 person or the seizure, garnishment, attachment, or sale of any property or wages
2 of any person unless such action is lawful and the debt collector or creditor
3 intends to take such action.

- 4 c. Here, Defendant violated §§1692e and 1692e(4) of the FDCPA by threatening to
5 garnish Plaintiff's wages for payment of the debt, when it did not intend to do so
6 and/or did not have the legal authority to do so, and knowing that Plaintiff
7 disputed owing the debt.

8
9 **COUNT IV**

10 29. Defendant's conduct, as detailed in the preceding paragraphs, violated 15 U.S.C.
11 §1692f of the FDCPA.

- 12 a. A debt collector violates §1692f of the FDCPA by using unfair or unconscionable
13 means to collect or attempt to collect any debt.
- 14 b. Here, Defendant violated §1692f of the FDCPA engaging in other unfair and
15 unconscionable debt collection practices, including not providing her with
16 information about the alleged debt and making statements that caused Plaintiff to
17 make payment on the debt to avoid wage garnishment.

18
19 **COUNT V**

20 30. Defendant's conduct, as detailed in the preceding paragraphs, violated 15 U.S.C.
21 §1692g(a) of the FDCPA.

- 22 a. A debt collector violates §1692g(a) of the FDCPA by failing to send to the
23 consumer, within five days after its initial communication with a consumer in
24 connection with the collection of a debt, a written notice containing: (1) the
25 amount of the debt; (2) the name of the creditor to whom the debt is owed; (3) a

statement that unless the consumer, within thirty days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt collector; (4) a statement that if the consumer notifies the debt collector in writing within the thirty-day period that the debt, or any portion thereof, is disputed, the debt collector will obtain verification of the debt or a copy of a judgment against the consumer and a copy of such verification or judgment will be mailed to the consumer by the debt collector; and (5) a statement that, upon the consumer's written request within the thirty-day period, the debt collector will provide the consumer with the name and address of the original creditor, if different from the current creditor.

- b. Here, Defendant violated §1692g of the FDCPA by failing to send written notification, within five (5) days after its initial communication with Plaintiff, advising Plaintiff of her rights to dispute the debt or request verification of the debt or providing her with the name of the original creditor and the amount of the debt.

WHEREFORE, Plaintiff, SHAKEA BRADSHAW, respectfully prays for a judgment as follows:

- a. All actual damages suffered pursuant to 15 U.S.C. §1692k(a)(1);
- b. Statutory damages of \$1,000.00 for the violation of the FDCPA pursuant to 15 U.S.C. §1692k(a)(2)(A);
- c. All reasonable attorneys' fees, witness fees, court costs and other litigation costs incurred by Plaintiff pursuant to 15 U.S.C. §1693k(a)(3); and
- d. Any other relief deemed appropriate by this Honorable Court.

DEMAND FOR JURY TRIAL

1 PLEASE TAKE NOTICE that Plaintiff, SHAKEA BRADSHAW, demands a jury trial
2 in this case.

3 RESPECTFULLY SUBMITTED,
4

5 Date: 10/26/2012

6 By: /s/ Craig Thor Kimmel
7 CRAIG THOR KIMMEL
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